

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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OCT 22 2013

AT 8:30
WILLIAM T. WALSH
CLERK

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NOVO NORDISK INC. and
NOVO NORDISK A/S

Plaintiffs,

v.

SANDOZ INC.

Defendant.
-----X

Civil Action No. 3:11-CV-06106-FLW-DEA

Document Electronically Filed

FINAL CONSENT JUDGMENT

WHEREAS, Defendant Sandoz, Inc. ("Sandoz") has submitted Abbreviated New Drug Application ("ANDA") No. 78-555 to the Food and Drug Administration ("FDA") seeking approval to engage in the commercial manufacture, use, and sale of certain proposed generic product;

WHEREAS, ANDA No. 78-555 contains a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) (a "Paragraph IV certification") alleging that United States Patent No. 6,677,358 ("the '358 patent") is invalid, unenforceable, and/or will not be infringed by the manufacture, use, or sale of Sandoz's proposed generic product;

WHEREAS, Plaintiffs Novo Nordisk Inc. and Novo Nordisk A/S (collectively, "Novo Nordisk") brought the above-captioned action against Sandoz for infringement of the '358 patent under 35 U.S.C. § 271(e)(2)(A) (the "Complaint");

WHEREAS, in response to the Complaint, Sandoz filed a motion ("Sandoz Motion") to dismiss, transfer or stay this action pending resolution of the motion to dismiss filed by Novo

Nordisk in the companion case *Sandoz Inc. v. Novo Nordisk Inc.*, Case No. 11-13594 (E.D. Mich.) (the “Michigan Action”);

WHEREAS, on June 14, 2012, this Court issued an Order staying and administratively terminating the case, and directing the parties to inform the Court if the underlying facts and circumstances change prior to a ruling in the Michigan Action;

WHEREAS, on June 18, 2013, the Federal Circuit issued its decision in the appeal of *Novo Nordisk v. Caraco*, Case No. 2011-1223 (Fed. Cir.) affirming the district court’s determination that claim 4 of the ’358 patent was invalid as obvious, but reversing the district court’s determination that the ’358 was unenforceable due to inequitable conduct (the “Caraco Appeal”).

Based on the premises set forth above, the parties met, conferred and reached agreement on a means for the efficient disposition of the issues and claims raised and asserted in this action. The agreement was reached in order to save and conserve the costs of litigation and judicial resources, and without any admission of liability by either party. Good cause appearing therefore,

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the parties and subject to the approval of the Court, that:

1. Judgment shall be entered in favor of Sandoz that claim 4 of the ’358 Patent is invalid based on the Federal Circuit’s decision in *Novo Nordisk v. Caraco*, Case No. 2011-1223 (Fed. Cir. June 18, 2013).
2. The Sandoz Motion shall be denied without prejudice as moot.
3. Following the entry of Judgment in this action, Sandoz will dismiss without prejudice the Michigan Action.

4. Each party shall bear its own costs, expenses, and attorneys' fees, and waives any right to pursue against any other party an award of costs, expenses, or attorneys' fees.

5. This Court shall retain jurisdiction over this stipulation.

6. Whereas after entry of this stipulation, final judgment in favor of Sandoz shall be entered by the Court.

Dated: October 21, 2013

GIBBONS P.C.

s/ David E. De Lorenzi

David E. De Lorenzi

GIBBONS P.C.

One Gateway Center

Newark, New Jersey 07102-5496

Telephone: (973) 596-4637

Josh A. Krevitt

Aric Wu

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue, 47th Floor

New York, New York 10166-0193

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

Michael A. Sitzman

GIBSON, DUNN & CRUTCHER LLP

555 Mission Street, Suite 3000

San Francisco, California 94105

Telephone: (415) 393-8200

Facsimile: (415) 393-8306

Attorneys for Plaintiffs

Novo Nordisk Inc. and Novo Nordisk A/S

[signatures continue on next page]

Dated: October 21, 2013

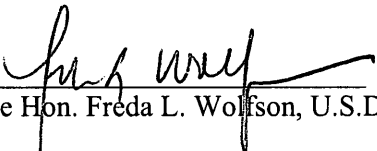
DUANE MORRIS LLP

s/ Sheila Raftery Wiggins
Sheila Raftery Wiggins
DUANE MORRIS LLP
744 Broad Street, ste. 1200
Newark, NJ 07102
Telephone (973) 424-4200
Facsimile: (973) 424-2001

Meredith Addy
Mark Remus
STEPTOE & JOHNSON LLP
115 S. LaSalle, ste 3100
Chicago, IL 60603
Telephone (312) 577-1254
Facsimile: (312) 577-1370

*Attorneys for Defendant
Sandoz, Inc.*

IT IS SO ORDERED this 22nd day of October, 2013.


The Hon. Freda L. Wolfson, U.S.D.J.